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Alaska Telephone Association

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David Fauske
President

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Executive Director

July 20, 1998

EX PARTE OR LATE FILED

The Honorable William E. Kennard
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, DC 20554

FCC MAIL ROOM

JUL 27 1998

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RE: CC Docket No. 98-4
Ex Parte Communication

OFFICE OF THE SECRETARY

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Dear Mr. Kennard:

This is with reference to the above-captioned matter involving the GCI Communication, Inc. ("GCI") Petition for Preemption of Alaska restrictions on installation of duplicative MTS earth stations in remote Bush Villages.

By way of background, the Alaska Telephone Association represents twenty-two local exchange carriers many of which serve the 150 plus Bush locations where GCI is requesting preemption.

As you may be aware, in 1984, as a result of a lengthy FCC rulemaking, the Commission determined that the earth stations used in Bush Villages for toll interconnect (not private line) services should be owned 50 percent by the certificated LEC and 50 percent by Alascom, Inc. The premise for this holding was a determination to

avoid[] duplication of earth station facilities needed to provide essential public message telephone service to these small communities when, for economic reasons, mutual exclusivity exists.

Tentative Decision in CC Docket No. 80-584, 92 FCC 2d 736, 756 (1982); accord Memorandum Opinion and Order in CC Docket No. 80-584, FCC 86-69, released February 25, 1986 at ¶5 ("duplicative facilities create[] unnecessary costs to consumers for essential MTS").

Thus, FCC policy mirrors the APUC's rule. This is reflective of the fact that, when it comes to Alaska and its unique conditions, the Commission and the APUC historically have been careful to harmonize policies.

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JUL 27 1998

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In other words, the GCI Petition is not only a challenge to the APUC rule, but also to the FCC's parallel policy.

In its earlier filings in this matter, the Alaska Telephone Association and others have urged that comity with Alaska militated in favor of allowing the APUC to evaluate the data generated from GCI's Bush Demonstration Project in formulating a successor to the current policy; there was nothing in Section 253 of the Telcom Act (cited by GCI in support of its Petition) which dictated the timing of Commission action on any given preemption petition; and that, to the contrary, Section 253(b) expressly preserves State authority to maintain measures deemed necessary to protect universal service and the public welfare. Commentors further observed that GCI had not shown, indeed had not even alleged, that the APUC's consideration of its request was anything other than a good faith, deliberate effort to come to grips with the difficult issues presented; and that nothing in Section 253 compels a flash-cut from the current policy to a successor policy. Overarching all, parties stressed the risks that GCI's demand for a flash-cut present to the preservation of universal service in these highest of high cost areas for citizens who are among the poorest in the United States -- a concern echoed by the APUC in its earlier studies of this issue. See Order No. 6 in APUC Docket R-90-1 at 7, 11 (outright elimination of the earth station policy posed "considerable risk" threatening "drastically higher" costs and universal service, which effects "it would not be prudent to ignore").

The Alaska Telephone Association would, at this time, like to bring to the Commission's attention a new and important development. When GCI attempted to persuade policymakers to grant it a waiver of the facilities restriction so as to conduct its Demonstration Project, it said:

The overall objective is to demonstrate that the integrated system developed by GCI can provide high quality, reliable, state-of-the-art telecommunications services to rural Alaska at competitive rates without requiring external subsidies (emphasis added) (GCI Response to Data Request, 8/18/95. p.1, Docket U-95-38).

In what can only be characterized as a significant about-face, GCI now contends that the only way it can undertake service to the Bush is if it receives universal service subsidies! In particular GCI says:

...the provision of interexchange service to rural villages should be supported by a universal service fund, with a payment of cents per minute for each minute that originates or terminates in a rural location (APUC Docket R-98-1, GCI Comments, p. 14).

GCI's admission comes on top of AT&T Alascom's own recent requests for financial relief stemming in large measure from GCI's insistence on installing a second MTS earth station in Demonstration Project communities:

AT&T Alascom's situation is further aggravated by the arrival of competition in the Bush. ...the simultaneous arrival of DAMA and competition in the 56 DAMA demonstration sites has been a "double whammy" for AT&T Alascom's Bush revenues, which were already inadequate. For example, in Village X, AT&T Alascom installed DAMA facilities. In 1997, AT&T Alascom's revenues from Village X declined by \$449,000.... In Village Y, AT&T Alascom installed DAMA and suffered a decline of \$924,000 in revenue. The DAMA costs for a typical location exceed \$200,000 (APUC Docket R-98-1, AT&T Alascom Comments, p.10).

If an effective, competitively neutral system of support for Bush service is not implemented, AT&T Alascom will not be able to afford future improvements to its Bush facilities beyond the DAMA deployment undertaken to date and the deployment of the new satellite scheduled to replace Aurora II.... Its shareholders and ratepayers, however, cannot fairly be asked to be the sole source of financial support.... (APUC Docket R-98-1, AT&T Alascom Comments, p.11).

The bad news is that both GCI and AT&T Alascom are apparently losing money and find it necessary to seek external subsidies. The good news is that the facilities restriction, which is still in place in over 100 other Bush locations, effectively contains the damage brought on by GCI's uneconomic duplication of facilities to the 56 Demonstration sites.

GCI's recent statement amounts to an admission that it is indeed uneconomic to install a second, duplicative MTS earth station in Bush communities. And it amounts to an admission that the Demonstration Project has failed GCI's own test. GCI's position now seems to reduce to a claim that should be able to place additional demands on universal service funds so as to install a second earth station, the functions of which are redundant to the first.

The Alaska Telephone Association urges the Commission to allow the APUC, which is most directly responsible for preserving universal service in the Bush, to complete its work and, in particular, consider changes that might be made in the current policy so as to bring it in harmony with the Telcom Act. Such changes must be made in concert with others such as changes in the carrier-of-last-resort policy which ensures that there will be at least one carrier providing service to these remote Villages. In all events, any policy changes should be carefully coordinated by the two agencies in order to ensure that universal service is preserved in the Bush.

An original and one copy of this letter is supplied for inclusion in the Docket.

Sincerely,

A handwritten signature in black ink, appearing to read "James Rowe", with a long horizontal flourish extending to the right.

James Rowe

cc: The Honorable Harold Furchtgott-Roth
The Honorable Susan Ness
The Honorable Michael K. Powell
The Honorable Gloria Tristani
The Honorable Frank Murkowski
The Honorable Ted Stevens
Melissa Newman
Kathy Smith
Eric Bash
Donnajeane Ward
Anita Wallgren
Thomas Power
Alaska Public Utilities Commission